

Kapisanan Ng Mga Brodkaster Ng Pilipinas
STANDARDS AUTHORITY
6/F LTA Building, 118 Perea St., Legaspi Village
Makati City

EN BANC

IN THE MATTER OF THE INVESTIGATION OF
THE BROADCAST MEDIA COVERAGE OF THE
AUGUST 23, 2010 HOSTAGE-TAKING INCIDENT
AT RIZAL PARK, MANILA.

MICHAEL ROGAS, ERWIN TULFO, and RADIO
MINDANAO NETWORK, INC. (RMN-DZXL),
Respondents.

CASE NO. 2010-02-09

ABS-CBN BROADCASTING CORPORATION
(ABS-CBN CH. 2),
Respondent.

CASE NO. 2010-03-09

ERWIN TULFO, DJ STA. ANA, and ASSOCIATED
BROADCASTING COMPANY (ABC CH. 5),
Respondents.

CASE NO. 2010-04-09

x ----- x

DECISION

The matter before the Standards Authority (the Authority), consists of three separate cases stemming from one and the same event, i.e., the hostage-taking incident inside a tourist bus on the 23rd of August 2010, which began at around 9:30 the morning of said day at Fort Santiago and ended at night at the Quirino Grandstand, Rizal Park, Manila, involving dismissed Police Sr. Inspector Rolando Mendoza, the hostage-taker, and twenty-one tourists from Hong Kong, the hostages, eight of whom were killed inside the bus after being held captive by Mendoza for more than ten hours.

The dismissed police officer was himself killed when police authorities launched rescue operations, which freed eight of the foreign nationals, one of whom later died due to the severity of his injuries.

The event was extensively covered live by broadcast media, prominently by member-respondents of the Kapisanan ng mga Brodkaster ng Pilipinas (KBP), namely, Radio Mindanao Network (RMN), through its radio station DZXL; ABS-CBN Broadcasting Corporation (ABS-



CBN), through its television Channel 2; and Associated Broadcasting Company (ABC), through its television Channel 5, all based in Metro Manila.

Even CNN carried and beamed a live feed to its international audience from the incident site. It was not only the country's millions watching, but those beyond its borders as well.

The coverage sparked a lengthy national debate on the conduct of broadcast media during the incident, with one side defending its coverage and the other, condemning it, with some even blaming media, particularly its television coverage, for contributing to the incident's tragic conclusion.

On August 31, 2010, cognizant of the role of the KBP as a self-regulating national organization of broadcast media, the participation of some of its member networks and stations in the live coverage of the incident, and the existence of provisions in its Broadcast Code governing membership coverage of hostage-taking events or similar "crimes and crisis situations" in progress [Art. 6, Part I ("Program Standards")], the Board of Directors of the KBP referred the matter to the Authority with a request for a review and inquiry into the "*conduct of the Association's member networks, stations, and reporters during the coverage of the August 23, 2010 hostage-taking incident at the Luneta Grandstand, in accordance with the KBP Broadcast Code and SA Rules and Procedures.*"

On September 24, 2010, after review and deliberation, and finding reasonable cause to accede to the request of the KBP Board of Directors, the Authority issued three separate directives titled "Show Cause Order and Notice of Hearing", each addressed to the named respondent-members. Additionally, on October 21, 2010, a separate "Show Cause Order" was issued to Messrs. Erwin Tulfo and D.J. Sta. Ana, broadcast personnel of respondent ABC.

On October 12, 2010, the Office of the President, through the Office of the Executive Secretary furnished the KBP with copies of the "First IIRC (Incident Investigation and Review Committee) Report, dated 17 September 2010" and the "Review of said Report, dated 8 October 2010" (issued by Executive Secretary Paquito N. Ochoa, Jr. and Chief Presidential Legal Counsel Eduardo V. de Mesa), relative to the August 23, 2010 hostage-taking incident, and through its covering letter, of same date, referred to the KBP "*for investigation the matter of the*

Wald

Roby

possible violation of the code of ethics of the following: 1. Michael Rogas; 2. Erwin Tulfo; 3. Jake Maderazo; 4. DZXL Radio Station; 5. ABS-CBN Television Station; 6. GMA 7 Television Station; 7. ABC 5 Television Station.”

The Authority took cognizance of the government referral when the KBP Board Chairman endorsed the said letter to it on October 18, 2010, a time when the Authority was already investigating the same media coverage of the incident, per the earlier request of the KBP Board of Directors, which was initialed by the Authority’s “Show Cause Order” of September 24, 2010 directed to each of the member-respondents.

After deliberation, the Authority decided to pursue and continue with its inquiry on the incident’s media coverage based on both the referrals from the KBP Board of Directors and the Office of the President.

1. THE CASE AGAINST RADIO MINDANAO NETWORK (RMN), ET AL.
CASE NO. 2010-02-09

On September 24, 2010, the Authority issued a “Show Cause Order and Notice of Hearing”, addressed to respondent Radio Mindanao Network (RMN) and its two broadcast personnel, namely, Michael Rogas, and Erwin Tulfo, directing them to explain in writing why no administrative sanctions, as provided in and authorized by the Broadcast Code, should be imposed on respondents on account of their broadcast on August 23, 2010, alleged to have violated Secs. 1 and 3, Article 6, Part I of the Broadcast Code, particularly the following:

(1) The interview with the hostage-taker, in relation to Art. 6, Sec.1 of the Broadcast Code, which provides: *“The coverage of crimes in progress or crisis situations, such as hostage-taking or kidnapping, shall not put lives in greater danger than is already inherent in the situation. Such coverage should be restrained and care should be taken so as not to hinder or obstruct efforts of authorities to resolve the situation.”* (First Charge)

(2) The identification of one of the hostages, in relation to Art 6, Sec. 3 of the Broadcast Code, which provides: *“The identity of victims of crimes or crisis situations in progress shall not be announced until the situation has been resolved or their names have been released by the authorities. The names of fatalities should be aired only when their next of kin have been notified or their names released by the authorities.”* (Second Charge)

On October 20, 2010, in compliance with the Authority’s said directive, respondents RMN and Michael Rogas, together, submitted a “Position Paper”, explaining respondents’

Wilder
Rogas

broadcast coverage of the hostage-taking incident, particularly the live interview with Mendoza, the hostage-taker, and asserting that no violation was committed by them of the Broadcast Code. Respondent Erwin Tulfo failed to respond or submit any paper in his defense. Earlier, or on September 2, 2010, and prior to the commencement of the inquiry by the Authority, respondent RMN voluntarily submitted a transcript of its radio interview with Mendoza and a "Press Statement", dated September 1, 2010, defending the said interview.

A hearing *en banc* was conducted by the Authority on October 20, 2010, the same day when the "Position Paper" was submitted by respondents RMN and Michael Rogas, with the following in attendance: Atty. Jorge C. Sacdalan, counsel for respondents RMN and Michael Rogas; respondent Michael Rogas; and Jesus J. Maderazo, who was cited for investigation in the referral of the Office of the President. Respondent Erwin Tulfo did not appear during the hearing.

On November 10, 2010, respondents RMN and Michael Rogas submitted a "Manifestation" adopting their "Position Paper" as their Memorandum. In addition, the "Manifestation" explained that Jesus J. Maderazo is simply a *"talent" announcer of member-respondent RMN, that he was only acting as "official spokesperson" of RMN during the hostage-taking incident, and that he was never "appointed and/or designated as Station Manager of RMN-DZXL, contrary to the news as released in the newspapers and television."* A "Certification", dated November 10, 2010, signed by the Personnel Director of member-respondent RMN, confirming the same employment status of Mr. Maderazo, is attached to the "Manifestation". During the hearing on October 20, 2010, Mr. Maderazo asserted the same facts surrounding his employment status in respondent RMN and expressed puzzlement and dismay over the inclusion of his name in the referral for investigation issued by the Office of the President.

We first dispose the issue surrounding the inclusion of Mr. Maderazo's name in the referral of the Office of the President. After a consideration of the testimonies and explanations made during the hearing on October 20, 2010 and the supporting "Certification", dated November 10, 2010, issued by the Personnel Director of respondent RMN, and absent of evidence to the contrary, the Authority finds no reasonable ground to believe that Mr. Maderazo had participated in any manner or capacity, in the live coverage by respondent RMN of the hostage-taking incident, particularly, the live radio interview conducted by Messrs. Rogas and

Waldo
[Signature]

Tulfo with the hostage-taker. Therefore, Mr. Maderazo cannot be held liable under Sec.1, Article 6, Part I of the Broadcast Code or any of the related provisions thereof.

The Authority, however, cannot similarly relieve respondent RMN, including its two broadcast personnel, Messrs. Michael Rogas and Erwin Tulfo, they having directly participated in the act subject of the charge stated in the "Show Cause Order", dated September 24, 2010, specifically the live radio interview conducted with the hostage-taker, which the Authority finds to have transgressed Sec. 1, Art. 6, Part I of the Broadcast Code.

In defense of their position, both testimonial and documentary, respondents RMN and Michael Rogas explained and justified their live radio interview with the hostage-taker, stressing, among others, the following points: (1) That, "RMN was just doing its sworn duty to bring and inform the public all sides and angles of the hostage taking event as it unfolded"; (2) That, it "interviewed Captain Mendoza (the hostage-taker) only after eight (8) hours have lapsed, principally to know the conditions of the hostages inside the bus and at the same time, to allow him to air his side"; (3) That, it "did not engage in any negotiations but even offered to link him (Mendoza) to the authorities xxx"; (4) That, it "did not interfere with the negotiations since Captain Mendoza had several available phone lines which he used in talking with other people outside the bus xxx"; (5) That, it "was not privy as to how and why Captain Mendoza lost his trust with the negotiators and his reasons for rejecting the calls from the authorities and his relatives"; (6) That, it "was not in control of the coverage being shown on television inside the tourist bus where he (the hostage-taker) witnessed the MPD's arrest of his brother, which caused Captain Mendoza to get infuriated"; and (7) That, "the interview did not cause the sudden emotional outburst of Captain Mendoza xxx". ("Position Paper", dated October 19, 2010, of respondents RMN and Michael Rogas)

We have carefully assessed and considered the defense put up by respondents RMN and Michael Rogas, but are not moved or persuaded by their arguments. However, the Authority makes it of record that it fully appreciates the cooperation shown by member-respondent RMN and Messrs. Rogas and Maderazo in our investigation of the network's coverage of the hostage-taking incident, particularly its live radio interview of the hostage-taker, and including the network's act of volunteering to the KBP a transcript of said interview even prior to our issuance of a "Show Cause Order" on September 24, 2010. We cannot express the same sentiment insofar as respondent Erwin Tulfo is concerned, who had failed to attend the hearing on October 20,

Handwritten signatures:
Maderazo
Rogas

2010 after having earlier failed to respond in writing to our stated "Show Cause Order" of September 24, 2010.

The Authority had perused, reviewed, and considered the thirty-three page transcript of the radio interview of Mendoza, with a focused mind and deliberate slow pace, and concludes that respondents RMN and Messrs. Rogas and Tulfo, its broadcast personnel who conducted the said interview, violated Sec. 1, Art. 6, Part I of the Broadcast Code. We quote from various portions of the transcript:

(In the course of interviewing Mendoza, respondent Rogas is informed on Manila Vice Mayor Isko Moreno's approaching the bus.)

Rogas : *Pwede po wag po natin bitawan ang telepono, pwede nyo po ba iparinig sa amin yung nagaganap nyo pong usapan ni Vice Mayor Isko Moreno.*

C. Mendoza: *Hahawakan po ng driver*

Rogas : *Okay yung driver....Ah Mr. Driver?*

Driver : *Ah hello? Ah yes Sir? Mam?*

Rogas : *Ah hello...hello..ah pwede pakiusap naman wag mong ibaba yung telepono para marinig yung pag-uusap.*

Driver : *Ah okey po yes Mam yes Mam!*

Rogas : *Si Michael Rogas po ito....pumapasok na itong si Vice Mayor Moreno tama?*

Driver : *Ah hindi po...si General Mendoza kasama ang kanyang kapatid.*

Rogas : *Kaninong kapatid? Kapatid ni Kapitan?*

Driver : *Yes Sir!*

Rogas : *Papalapit na ba sila sa bus?.....(goes on...)*

Rogas : *Okey wag mong ibababa yng telepono ha? Pakiusap lang wag mong ibababa yung telepono.*

(When Mendoza receives the letter of the Ombudsman, respondent Rogas requests the bus driver to hand the telephone back to Mendoza.)

Rogas : *Kapitan, pwede po nating basahin sa ere yung nilalaman nung sulat sa inyo ng Ombudsman?*

(Mendoza agrees and reads part of the letter.)

Rogas : *Ok, ano po ang plano nyo yan di po pinagbigyan ang....*

Mendoza : *Basura ito sa akin, hindi ito ang aking kailangan....*

Rogas : *Ano po ang plano nyo ngayon?...*

Mendoza
Rogas

(This same question is then asked by respondent Rogas three more times in between expressions of escalating frustration and anger by Mendoza and in between cut lines. Respondent Rogas kept on pressing Mendoza about the latter's views on the letter of the Ombudsman; on what would satisfy the latter; and how radio could help his "cause".) Finally, Mendoza says he could not trust anybody.)

Rogas: *Okey...ah huling ano po...sino na po talaga ang gusto nyong makausap maliban sa media?*

Mendoza : *Ah yung pinaka-reliable, yung totoo ang sasabihin sa akin kasi ayaw ko nung sinusinungalingan lang ako.*

Rogas : *Sino po yun?*

Mendoza : *Media...media... media lang din.*

Rogas : *Media lang din? Ako po'y nakikinig ngayon at ang RMN po ay nakikinig din ngayon, baka po pwede kaming makatulong anu po ang magiging mensahe ninyo sa Ombudsman at kinokontak po naming ngayon ang Ombudsman, Kapitan? Si kasamang Erwin Tulfo...*

Mendoza : *Oh? Teka lang nakikinig ako, teka muna, mamaya na!*

(Busy Tone.)

Rogas : *Ah sandal ha... pinutol, naputol ulit. Kasamang Erwin ? Erwin?*

E. Tulfo : *Ah, Michael, may problema tayo at ayaw tayong palapitin dito sa bus nitong mga opisyal ng MPD, hindi ko maintindihan kung bakit, natatakot daw sila para sa safety daw nitong media, eh yung ang hinihingi nung tao eh!*

Rogas : *Ah Erwin hindi pa ba kayo pinapalapit kahit man lamang doon sa malapit sa bintana kasi yung ang kanyang hinihingi eh!*

E. Tulfo : *Ay hindi nga eh! Hindi kami pinapalapit hindi ko maintindihan eh at ready tayong pumunta dun eh kanina pa nga e naawa na nga ako run sa mga kasamahan natin – basang-basa na kami sa ulan.*

Rogas : *Alam mo yung ang kanyang huling hinihingi, yung mga reporter, yung media na pupwedeng makausap ng mapagkakatiwalaan e.*

E. Tulfo : *O, e, handa naman tayo Mike. Itong Radyo Mo Nationwide (RMN) saka itong news-5 ay handa naming lumapit doon Mike para mabigyan nating ng buong detalye at marinig itong kanyang hinaing pero itong puro pulis na lang ang naririnig natin, Wala nga tayong naririnig, mabuti nga't nakausap ng eksklusibo ng Radyo Mo Nationwide, mukhang tayo lang ang nakakakuha sa kanya ngayon ng mga oras na ito sa pagsasalita ito.*

Mendoza
Rogas

We find the long verbal exchange, as shown in the transcript of the interview, read and appreciated *in toto*, as wanting of the high degree of caution and restraint demanded by the Broadcast Code provision on the coverage of a hostage-taking incident and the critical circumstances then obtaining at the incident site. The dialogue with the hostage-taker, carried live by respondent RMN, did not in any manner assist the authorities in the latter's efforts to end the crisis then in progress. It only created a situation which effectively deprived the police authorities of the opportunity to deal solely and continuously with the hostage-taker on a one-on-one basis. It also diminished the precious time required by the police negotiators to end the incident at the earliest moment. Much time was, in fact, wasted by the live interview which could otherwise have been used by the police negotiators to convince Mendoza to surrender peacefully and seek redress of his grievances within the prescribed legal parameters.

There are two overriding concerns in the coverage of a hostage-taking incident or similar crimes in progress or crisis situations which are embedded in Sec. 1, Art. 6, Part I of the Broadcast Code. The first is the safety and security of all persons involved in the event. This is manifested in the first sentence of the said code provision, which states: "*The coverage of crimes in progress or crisis situations shall not put lives in greater danger than is already inherent in the situation.*" The second is the monopoly of the authorities in controlling the event. This is shown in the second sentence of the said provision, which states: "*Such coverage should be restrained and care should be taken so as not to hinder or obstruct efforts of authorities to resolve the situation.*" This section of the Broadcast Code is intended to serve as a beacon for all KBP members in the coverage of a hostage-taking incident or similar crimes in progress or crisis situations. It is aimed to protect human lives, above all things, and its observance is strictly mandated and takes precedence over the right of the public to information or the duty of media to inform the public. Likewise, this provision acknowledges the imperative need for the police and government authorities to have control over the incident and for the media coverage not to inhibit, impede, or in any manner, interfere with the efforts of the police and government authorities to resolve the situation at the earliest. In any hostage-taking incident or any similar situation involving crimes in progress, broadcast personnel must remain dutiful journalists and chroniclers of the event. They must accept the fact that their only role in a hostage-taking incident is to cover and report on the event, and not to become principal or supporting actors in the resolution thereof, which is the exclusive domain of the police and government authorities.

We did not find the second charge as substantial as the first, especially considering the fact that the identification of one of the hostages was made in the course of the interview, which

W. S. ...
R. ...

is subject of the first charge.

2. THE CASE AGAINST ABS-CBN BROADCASTING CORPORATION (ABS-CBN)
CASE NO. 2010-03-09

On September 24, 2010, the Authority issued a "Show Cause Order and Notice of Hearing", addressed to respondent ABS-CBN, ordering it to explain in writing why no administrative sanctions, as provided in and authorized by the Broadcast Code, should be imposed on respondent on account of its broadcast on August 23, 2010, alleged to have violated Secs. 1 and 4, Art. 6, Part I of the Broadcast Code, particularly the following:

(1) The live coverage showing the arrest or taking into police custody of SPO2 Gregorio Mendoza, brother of the hostage-taker, fronting the Luneta Police Community Precinct (PCP), in relation to Art. 6, Sec. 1 of the Broadcast Code, which provides: *"The coverage of crimes in progress or crisis situations such as hostage-taking or kidnapping shall not put lives in greater danger than is already inherent in the situation. Such coverage should be restrained and care should be taken so as not to hinder or obstruct efforts of authorities to resolve the situation."* (First Charge)

(2) The live coverage showing the positions taken by the police authorities prior to and during the assault on the bus occupied by the hostages and the hostage-taker, in relation to Art. 6, Sec. 4 of the Broadcast Code, which provides: *"The coverage of crimes or crisis situations shall not provide vital information or offer comfort or support to the perpetrators."* (Second Charge)

On October 15, 2010, in a letter submitted to the Authority, respondent, through its legal counsel, argued that in the coverage of the arrest of SPO2 Mendoza (first charge under the cited "Show Cause Order"): a) *"... the company did not seek to air the arrest of SPO2 Mendoza, but rather it was broadcasting the interview with SPO2 Mendoza when he was arrested. The Company just happened to be broadcasting live when the arrest was unfolding...";* b) *"....the news team considered pulling away but SPO2 Mendoza was crying for help as he feared for his life....after the police began to arrest Mendoza, the news team physically stepped back to comply with the police request..";* c) *"... (it)...was a developing story that was worthy of continuing coverage since Mendoza was suspected by the police of being an accessory to the hostage taking...";* d) *"...the Company never defied any police directive or order regarding its coverage.... It appears that the police did not see any danger despite the fact that the arrest would be aired...";* e) *"....in the IIRC report, it was found that the potentially adverse impact of*

Subida
ACB

reporting on, or giving coverage to, the arrest could only be assessed if the incident is correlated with other events that immediately preceded or were simultaneously happening...”.

In the coverage of the police assault (second charge under the cited “Show Cause Order”), respondent argued that: a) “...the coverage did not affect, much less impede, the efforts of the authorities to resolve the hostage-taking incident...” b) “...coverage was limited to avoid showing police movements...maintained extreme close-ups or wide shots....immediately complied with the police when it was asked to turn off its lights, which caused grainy and dark shots.”; c) “...If the assault was unsuccessful..not due to the... broadcast.. but to unpreparedness of police...the coverage did not provide vital information or assist the hostage-taker in any way.” ; d) “..company exercised self-restraint....hostage-taking was part of a legitimate news story...in accordance with Company’s mandate to deliver news accurately and thoroughly in promotion of the public’s right to information..bearing in mind safety of people involved...”; e) “ ...At all times, during the Company’s coverage...news team never crossed the police line. While (they) had access to members of the police reaction team, the Company held back interviews which would compromise their plans and/or location, unlike some media outfit which aired the footage “of the bus from the vantage point of the sniper which showed the rifle pointed towards the right side of the bus”.

A hearing was conducted on October 21, 2010, with Attys. Cherrie Cruz and Maximilian Uy appearing for respondent. In said hearing, counsels stressed the following:

1. The coverage of the arrest (of Gregorio Mendoza, brother of the hostage-taker) developed in the middle of the interview. ABS-CBN did not seek out the incident. It started off as a regular interview and simply developed. The station planned to pull away, but was constrained not to do so due to the following: a) Gregorio was asking for help; b) Gregorio was considered by the police as a suspect; c) Gregorio had information about his brother (the hostage-taker);
2. The coverage should be evaluated on what the incident was all about and not just based on hindsight, for it is not the coverage but rather the incident itself that put lives in greater danger;
3. One cannot make a conclusion or presumption that the coverage contributed to raising the level of danger. ABS-CBN did not know what was happening inside the bus; the duty of the reporter was to report the incident and not to solve the crisis nor anticipate what the hostage-taker was thinking or doing. ABS-CBN reporter George Cariño was even requested to go inside the bus to interview the hostage taker but respondent ABS-CBN refused consent;

Handwritten signature

4. The coverage should be analyzed in its context taking into consideration what the crew knew (or did not know) at the time the incident was unfolding. Had respondent ABS-CBN knew more than what it was actually covering, the network could have limited its coverage. ABS-CBN knew the position of the snipers but did not show it; and

5. A clear causal connection needs to be established between the coverage of the hostage-taking incident and the arrest of Gregorio by the police.

Considering that there were several questions that needed to be clarified from the viewpoint of the reporters at the incident site, another hearing was scheduled on October 29, 2010, and respondent was requested to secure the attendance of its reporters, Ron Gaglac and George Cariño, as well as the person-in-charge of the coverage. Attys. Cherrie Cruz, Maximilian Uy and Mario Santos and Ms. Maria Ressa appeared for respondent during the hearing. Upon inquiry, Ms. Ressa informed the Authority that there was no single person who could be considered as on top of the network's coverage, but that as head of the News and Current Affairs division of respondent, she was inside the network's control room watching the hostage-taking incident unfold. Ms. Ressa admitted that they were very much aware of the dangers of the situation but that she had no control on the field reporters once they are put live on-air. She further informed that:

1. ABS-CBN considers an information as "vital" (in relation to the provision of the Broadcast Code alleged to have been violated) when the same could not be made known to the hostage taker through his own efforts;

2. During the coverage, ABS-CBN was faced with an ethical dilemma and was very much aware of the dangers but did not pull away in covering the incident. It assumed that the government was in control of the situation, as in past incidents. Media was not in control of the incident at any point in time and had to make editorial judgment calls; and

3. Police requested ABS-CBN to step back from the scene and it complied; however, GMA 7 stepped in and continued to cover the event. Police did not prevent or stop media from its continuing coverage of the incident.

On November 19, 2010, in compliance with our Order dated November 8, 2010, respondent submitted its "Memorandum", arguing that: a) "... charges be evaluated based on circumstances obtaining at the time of broadcast and the knowledge and information which the company then possessed... Company cannot be made to answer for any knowledge or information that became apparent after the occurrence.."; b) "... Company always thought of the lives of the people involved, that its broadcast should not adversely affect the manner by which the authorities resolved the situation and presumed the hostage-taker had access to what was being

W. L. ...
W. L. ...

aired.”; c) “....the Company did not receive any instructions from the police....had they asked...the company would have readily complied as it had done in the past...”; d) “...Company was not privy to police plans..not listening to the interview of hostage-taker over RMN...did not know how or when the coverage might potentially affect police operations (from IIRC report).....; e) “....the arrest of SPO2 Mendoza was a newsworthy matter..and Company just happened to be broadcasting when the arrest was unfolding..”; f) “...despite the police’s belated apprehension that the hostage-taker could have been watching the broadcast, they still did not stop the Company from covering the arrest and instead allowed coverage....”; g)...the hostage-taker already had vital information ..he had the ability to see troop movements...as recorded in his interview with RMN..”

After a series of discussions and deliberations, the Authority finds no violation by respondent of the first charge, i.e., the live coverage showing the arrest of SPO2 Gregorio Mendoza, which is alleged in the “Show Cause Order” of September 24, 2010 as violative of Sec. 1, Article 6, Part I of the Broadcast Code, which states that: “*The coverage of crimes in progress or crisis situations such as hostage-taking or kidnapping shall not put lives in greater danger than is already inherent in the situation. Such coverage should be restrained and care should be taken so as not to hinder or obstruct efforts of authorities to resolve the situation.*”

The Authority recognizes the propriety and exigency of the judgment call made by respondent to air the coverage of the arrest of Gregorio Mendoza, which was a fast-paced developing or breaking event. The network’s field reporter initiated the said coverage after recognizing its relevance or connectivity to the hostage-taking incident, considering that the person subject of said arrest was the brother of the hostage-taker. However, it is our view that the first charge against respondent is not so much on the coverage of the arrest of Mendoza, but on respondent’s extended or protracted time in the airing of the same and the network’s seeming lack of restraint at first impression. But, given the unique circumstances attending the incident, exacerbated by the uncertainty surrounding the actions of the police and government authorities at the time, it is difficult for us to conclude that respondent’s coverage on the arrest of Gregorio Mendoza “*put lives in greater danger or obstructed the efforts of the authorities to resolve the situation.*” Moreover, if the respondent had suddenly interrupted or severed its coverage of said arrest, the viewing public would have misinterpreted the same by assuming that the worst had befallen on Mendoza, thereby heightening the level of anxiety and tension among the millions of viewers who were watching the unfolding event on primetime throughout the

W. Lopez
RMN

country. Respondent ABS-CBN cannot and must not be faulted for covering the arrest of Gregorio Mendoza.

However, as regards the second charge against respondent, i.e., its alleged violation Sec. 4, Article 6, Part I of the Broadcast Code, which states that: "*The coverage of crimes or crisis situations shall not provide vital information or offer comfort or support to the perpetrators.*", the Authority finds respondent to have violated the same.

We have viewed, studied, and reviewed a copy of the recorded coverage of respondent, particularly the period covered by the rescue operations or police assault on the bus, and find that it was conducted in a manner which provided vital information, *by being made available*, to the hostage-taker. We view the information provided by respondent's coverage as vital since it exposed at length and in detail the process or actions taken by the police in the rescue operations. A general or broad approach in the coverage of the incident should have been adopted by respondent to remove itself from the proscription intended by the code provision.

We rule that respondent's coverage, which became the carrier, albeit unintended, of what we view as "vital information" in the context of the situation then obtaining at the incident site, particularly as it relates to the police rescue operations, violates the cited provision of the Broadcast Code.

It is of public knowledge that there was a television set inside the bus. The fact that the hostage-taker was monitoring another channel, not the channel of respondent, is not material. What is controlling in this case is the directive provided by Section 4, Article 6 of the Broadcast Code, i.e., the coverage shall *not provide vital information* or offer comfort or support to the hostage-taker, *irrespective of whether such information is actually received by him*. As long as there is a broadcast coverage, which provides vital information concerning a hostage-taking incident (or crimes in progress or crisis situations) and as long as the hostage-taker has the opportunity to access such information, violation sets in. Rolando Mendoza, the hostage-taker, had *that* opportunity of access through the television set inside the bus.

The coverage of a hostage-taking incident is a delicate exercise, fraught with risk and danger, and is recognized as such under Sec. 1, Art. 6 of the Broadcast Code. For this reason, the KBP adopted Article 6, titled "CRIME AND CRISIS SITUATIONS", as part of its code, to provide guidance to its members on the manner by which such coverage is to be undertaken, predicated on the principle that the safety and security of persons involved in a hostage-taking

Handwritten signature

situation is the primordial consideration and takes precedence over the duty of media to provide information to the public (and the right of the public to information).

Respondent ABS-CBN itself admitted that it was well aware of the dangers attending the hostage-taking incident and that the network had withheld the broadcast of certain sensitive information affecting the said incident. For that, we credit respondent. However, our review of its coverage of the incident, particularly the activities surrounding the police rescue operations, shows that respondent failed to measure up to the degree of compliance required by the code provision in respect of the broadcast of vital information accessible to the hostage-taker. We quote the following excerpts from the transcript of the recorded coverage:

Julius Babao : *.....Walang politikong pumapapel sa negotiation. Bagama't sinabi ng pulis na wala silang intensyong sumalakay, nakunan naming sa video ang isang PNP-SWAT team na naghahanda sakaling may mangyaring sa hostage drama...*

Ron Galalac: *"....dalawang mobile patrol ang nandito para kay Greg...Napakaraming media ang itinutulak ng pulis dahil baka makita ng hostage taker sa TV sa loob ng bus ang pangyayari. Pangamba nila baka magwala ang hostage taker kapag nakita ito...."*

Ron Galalac: *"...Sinabi ng pulis kinukuha ang microphone kasi baka makita ng hostage taker ang pangyayari at magwala...May pumutok sa bus..malayo tayo pero rinig na rinig dito sa kinalalagyan nating community precinct. Ito na yung sinasabi kanina na baka napanood sa tv at gumaganti na si Capt. Mendoza. Pang-anim na putok na yung narinig naming. Alingaw-ngaw dito sa Quirino grandstand. Gumagapang ang mga pulis dito sa damo...nakatago..1-3-4-6 na pulis...nakatago sa puno yung iba....."*

Julius Babao: *"...papalapit na ang assault team sa likod ng bus...Armado ng matataas na kalibre ng baril. Nasa gilid na ng bus....Binasag ang salamin sa harap at walang putok ng baril. Nakapuesto na ang mga alagad ng batas...."*

Ron Galalac: *"...may panibagong assault unit na pumapasok sa gilid ng bus...hindi ko makita...dahan-dahan pumapasok ang mobile...."*

"....hindi itinuloy ang pagpasok sa likod.. hindi ko alam kung alam nila ang secret handle pero ngayon kinakalampag ng isang SWAT member ang harap ng pintuan....."

"...nasa vantage point si Capt. Mendoza at kitang-kita niya ang nangyayari habang ang mga kapulisan ay nasa baba...."

"...may mga ambulansya na nakaantabay dito sa kinalalagyan ko..."

Adrian

George Cariño: "...nakikita naming ang mga anino ng pulis pababa sa Quirino Grandstand...ang iba ay nasa damo....ang mga media men na-cordon off na..."

We note that in a press statement dated August 26, 2010, respondent expressly confessed "airing a report that detailed the position of the police during the assault." Such candor is noted and appreciated by the Authority, but does not move us any further away from our conclusion insofar as respondent's violation of the second charge is concerned.

3. THE CASE AGAINST ASSOCIATED BROADCASTING COMPANY (ABC), ET AL.
CASE NO. 2010-04-09

On September 24, 2010, the Authority issued a "Show Cause Order and Notice of Hearing", addressed to respondent ABC, ordering it to explain in writing why no administrative sanctions, as provided in and authorized by the Broadcast Code, should be imposed on respondent on account of its coverage on August 23, 2010, alleged to have violated Sec. 4, Art. 6, Part I of the Broadcast Code, particularly the following:

The live coverage showing the positions taken by the police authorities prior to and during the assault on the bus occupied by the hostages and the hostage-taker, in relation to Art. 6, Sec. 4 of the Broadcast Code, which provides: "*The coverage of crimes or crisis situations shall not provide vital information or offer comfort or support to the perpetrators.*"

This citation is identical to the second charge against ABS-CBN.

On October 8, 2010, respondent requested the Authority for a "bill of particulars".

On October 14, 2010, respondent submitted a "Compliance", stating in part that "...ABC was only doing its job covering a...newsworthy crisis...As stated by two Philippine senators, had media not covered the hostage incident, no one today would know the inadequacies of the government...ABC sought only to inform and not to obstruct or place anyone's life in danger.."

On October 20, 2010, we issued an Order, which provided respondent with the specifics of the charge.

On October 21, 2010, a "Show Cause Order" was issued to Messrs. Erwin Tulfo and DJ Sta. Ana, broadcast personnel of respondent, requiring both to explain in writing why they

(Handwritten signature)
(Handwritten signature)

should not be sanctioned for violation of the provisions of the Broadcast Code arising from their involvement in the coverage of the same incident.

On October 26, 2010, respondents jointly filed their "Answer", stating in part that respondents: (a) "*applied self-imposed restraint on the coverage of a newsworthy event... information relayed to the public was something that the hostage-taker already knew*"; b) "*...news crew stayed well outside the police lines as instructed by authorities and obtained updates only from authorized police spokespersons..*"; c) "*...when hostage-taker asked for media... ABC instructed Mr. Tulfo to ask police authorities if this was permissible and follow whatever ..police decide..... When clearance was denied....ABC firmly instructed Mr. Tulfo to obey...*"; d) "*...camera crews maintained their positions behind the police line.... ..never moved from that spot during the long drawn out crisis..*"; e) "*...did not report on the police's secret tactics or strategies..*"; f) "*...news crew documented the arrest of the brother of the hostage-taker but was not aired live. It was aired approximately two hours after in the late evening newscast...*"; g) "*...ABC documented the practice assault of the SWAT team which was conducted somewhere on the Grandstand grounds, but they never aired the footages.*"; h) "*ABC was not a participant when Mr. E.Tulfo remained on-air during the critical moments.. He himself acknowledged this in the ensuing investigation of the incident.*"

On October 29, 2010, a hearing was conducted with Atty. Alice Singzon appearing as counsel for respondents. She argued the following in defense of respondents:

1. The coverage did not provide any information that the hostage taker did not know. Rolando Mendoza was in an elevated position and he could see everything that was going on;
2. Erwin Tulfo was on the scene for TV-5 but RMN also called him. At that time, he was not exclusive for TV-5; it was possible that he was feeding news to RMN and TV-5 at the same time; and
3. ABC-5 covered the arrest of Gregorio Mendoza but did not air it live.

Since there were questions from members of the Authority concerning the conduct of the network's field reporters during the coverage, which respondents' counsel said could be best answered by the reporters themselves, another hearing was scheduled on November 8, 2010, with the following personnel of respondent ABC requested to appear: Messrs. Erwin Tulfo and DJ Sta. Ana and Ms. Luchie Cruz-Valdes.

Alice Singzon

[Signature]

However, no one appeared on the scheduled date of the hearing. Instead, Atty. Singzon submitted a "Manifestation" stating in part that: a) no new or additional information could possibly be gathered from further testimonies; b) the network had already demonstrated its full cooperation in the investigation; c) having been pre-judged by various sectors, the Authority is asked to consider with utmost impartiality the evidence that had been presented; d) there is no definition of "vital information" in Article 6 Section 4 of the Broadcast Code; e) recent amendments to the said provision prove that said provision, as originally worded, was imprecise and nebulous, hence, the need for its revision; f) video footage shown in the hearing was incomplete, as it was cut due to technical difficulties; out of 1:27:39 hours of what is purported to be respondent ABC's video coverage, the latter only admits the genuineness of those portions shown in the KBP's transcript situated between counter nos. 5:54 to 24:01, which portions appear to correspond with the network's tape-on-air (TOA).

On November 19, 2010, in compliance with the Order of the Authority dated November 8, 2010, respondents submitted a "Memorandum", emphasizing that: a) Art. 6, Section 4 is too loose and provides no clear directive on what is vital information and what acts are considered acts of "comfort or support to the perpetrators"; b) respondents simply performed their duties as broadcasters; c) respondents observed lawful orders of authorities on site; d) its coverage could not have given the perpetrator any strategic advantage since he could see and hear everything; e) withholding information could have endangered the safety of the public if they happened to walk right up to the site without any clue as to what was happening; f) the perpetrator was watching another channel inside the bus and not the respondent's channel; g) even assuming that respondent's reports were available to the perpetrator, it would be of no use to him since he was getting information through live action using his senses.

Like in the case against ABS-CBN, we have viewed, studied, and reviewed the recording made available to us regarding the coverage of respondent ABC during the hostage-taking incident and arrived at the same conclusion, i.e., respondent ABC had violated Sec. 4, Art. 6, Part I of the Broadcast Code.

We reiterate our ruling in the ABS-CBN case. To constitute a violation of the code provision, it is not required for the hostage-taker to have actually received the information on the police operations aired by respondent ABC; it is enough that the hostage-taker could have accessed the same by simply switching the channel of the television unit inside the bus to that of the respondent's.

W. Singzon
[Signature]

Like ABS-CBN, respondent ABC rendered a lengthy and detailed account, live, of the police operations and actions during the hostage-taking incident and provided the vital information that is proscribed to be broadcast in Sec. 4, Art. 6, Part I of the Broadcast Code. Our conclusion in the instant case against respondent ABC cannot be any different from that against ABS-CBN.

The argument of respondent ABC that the subject provision is “too loose and provides no clear directive to media in terms of what information is considered vital information” is misplaced. “Vital information” is not a difficult term to understand, comprehend, and apply as written in Sec. 4, Art. 6, Part I of the Broadcast and in the context of the hostage-taking incident of August 23, 2010. In fact, in our study and review of the recorded coverage of the incident by respondent ABC, we did not find it difficult to arrive at the conclusion that the network’s broadcast of the police operations, before and during the assault on the bus, provided “vital information”, the kind that is vital to the success or failure of the rescue efforts. The detailed and lengthy coverage of respondent ABC made it possible for the hostage-taker, if he had wanted to, to pre-empt, neutralize, or thwart the actions of the police. All that Mendoza had to do was to switch to the channel of respondent ABC. As earlier stated, there is no requirement for the hostage-taker’s actual receipt of such vital information from respondent’s channel; it is enough that such information was accessible and available to him at the time, if he had wanted to. From the excerpts of the recorded coverage, it is evident that respondent ABC provided information that is vital and accessible to all and sundry, including and especially the hostage-taker:

Erwin Tulfo :

Wala pang movement and mga pulis ngayon pagkatapos ng mga putok sa loob ng bus...

...ayan! ayan! Pinasok na ng SWAT..ayan na..ayan na...Oo..ayan na...

...nakikita na natin 1-2-3-4-5-6-7----15 ! SWAT members...

..winawasak na nila ang likod ng bus..eto na..Oo..eto na..Oo..eto na..minamaso ...Hinid sumasagot ng putok itong si Capt. Mendoza..

...50 metro lang ang layo natin dito sa mga SWAT team operations...

...15 SWAT members ang napapaligiran ang bus....

...2 pulis ang nakaposisyon sa harap; 2 ang nasa tabi at nakapaligid ang iba...

...sa may kanan ko .may mobile na hindi makalapit sa bus...nag-iingat sila dahil alam nilang maraming armas na dala si Capt. Mendoza (proceeds to enumerate them M-16 rifle, 45 caliber, Granada etc.)

(Wala)
Erwin Tulfo

In the course of the investigation affecting the two television networks, namely, ABS-CBN and ABC, we decided to address and focus primarily on their lengthy and detailed coverage of the incident in relation to Secs.1 and 4, Art. 6, Part I of the Broadcast Code, and allow both respondents to deal administratively with their own broadcast personnel involved in the said coverage, in accordance with their internal rules and regulations. Relatedly, the government referral to us for the investigation of the television coverage of the hostage-taking incident only included ABS-CBN, ABC, and GMA, and no broadcast personnel connected with any of said networks. The Authority, therefore, recommends that respondent ABS-CBN, on its own, conduct an investigation on the participation of its personnel, namely, Messrs, Julius Babao, Ron Gaglac, and George Carino, in the network's coverage of the subject incident, and, if warranted, impose the appropriate sanctions on any or all of them, in accordance with its internal rules. The Authority likewise recommends a similar investigation by respondent ABC on its personnel, namely, Messrs. Erwin Tulfo and DJ Sta. Ana, for their involvement in the network's coverage of the same incident. No recommendation is made for GMA considering the discussion next following in respect of its status *vis a vis* the KBP.

4. THE MATTER CONCERNING GMA 7 TELEVISION STATION

We now address the matter affecting GMA 7.

The government referral (from the Office of the Executive Secretary, Office of the President) explicitly named "*GMA 7 Television Station*", **which is not a member of the KBP**, as one of the subjects for investigation.

The Authority exercises jurisdiction over **members of the KBP only**, and is duly empowered by the Association's By Laws to investigate, hear, and adjudicate on alleged violations of the Broadcast Code by any of said members. (Art. VII, "Standards Authority")

Considering that GMA 7 is not a member of the KBP and that it is neither under the jurisdiction of the Authority nor governed by the provisions of the Broadcast Code, we, therefore, did not, as we could not, include the said entity in our investigation of the broadcast coverage of the hostage-taking incident.

It is suggested that the Office of the President study and address this unhealthy situation presently obtaining in the broadcast industry which imposes upon members of the KBP the obligation to comply with the rules and regulations of the Broadcast Code, and suffer the

Wides
Dechy

corresponding penalties in case of their violation, while, at the same time, exempting non-members of the Association, like GMA 7, from the coverage of said code and the disciplinary power of the Authority.

We believe that when the KBP was organized in April, 1973 as a self-regulating private organization of the broadcast industry [see *Bartolome et al. vs. KBP et al.*, G.R. No. 74839 (1987)], it was meant to include *all* broadcast stations in the country, without exception. Anything less mocks the principle of self-regulation, as evidenced by our present inability to officially inquire into the coverage of the hostage-taking incident by GMA 7 (and impose sanctions, if warranted) notwithstanding the referral for an investigation from the highest office of the land. The situation needs to be addressed and resolved, where no one broadcast company, television or radio, big or small, government or private, urban or provincial, is exempted from the principle of self-regulation (and accountability) which has guided the KBP and its membership for the past thirty-seven years. To this end, it is suggested that the Office of the President, through the Office of the Executive Secretary, and with the assistance of the National Telecommunications Commission (NTC), support the KBP in establishing a system or mechanism by which the Broadcast Code is made to apply to all broadcast stations in the country, without exception, in the interest of promoting the principle of self-regulation (and accountability) in the country's broadcast industry.

Finally, we commend the Board of Directors of the KBP and its general membership for taking swift and decisive action on our recommendation for the adoption of certain amendments of Article 6, Part I of the Broadcast Code in light of and guided by the media experience during the August 23, 2010 hostage-taking incident. The said amendments were approved by the KBP Board of Directors and the association's general membership in separate meetings held on October 20, 2010, and are now deemed integral parts of the code provision titled "Crimes and Crisis Situations". We take particular note of Sec. 1 of said code amendments wherein the KBP, in the exercise of self-regulation, expressly declares that it considers the preservation of human lives in the coverage of crimes in progress or crisis situations, such as hostage-taking, over and above the right of the public to information. Thus:

"The coverage of crimes in progress or crisis situations, such as hostage-taking or kidnapping, shall consider the safety and security of human lives above the right of the public to information."

Wald
Roby

WHEREFORE, the Authority finds cause to hold the following respondents liable for first offenses of certain provisions of the Broadcast Code, as follows:

1. On respondents **Radio Mindanao Network, Michael Rogas, and Erwin Tulfo**, for having violated Sec. 1, Art. 6, Part I of the Broadcast Code, the following penalties are hereby imposed: The sum of Thirty Thousand Pesos (P30,000.00) and censure on respondent Radio Mindanao Network; the sum of Fifteen Thousand Pesos (P15,000.00) and reprimand on respondent Michael Rogas; and the sum of Ten Thousand Pesos (P10,000.00) and reprimand on respondent Erwin Tulfo, all in accordance with the offense classification and range of penalties provided in Art. 4.1, Part III of the Broadcast Code.

We, however, find no cause to hold Jesus J. Maderazo of RMN liable under the Broadcast Code.

2. On respondent **ABS-CBN Broadcasting Corporation**, for having violated Sec. 4, Art. 6, Part I of the Broadcast Code, the following penalties are hereby imposed: The sum of Thirty Thousand Pesos (P30,000.00) and censure, in accordance with the offense classification and range of penalties provided in Art. 4.2, Part III of the Broadcast Code.

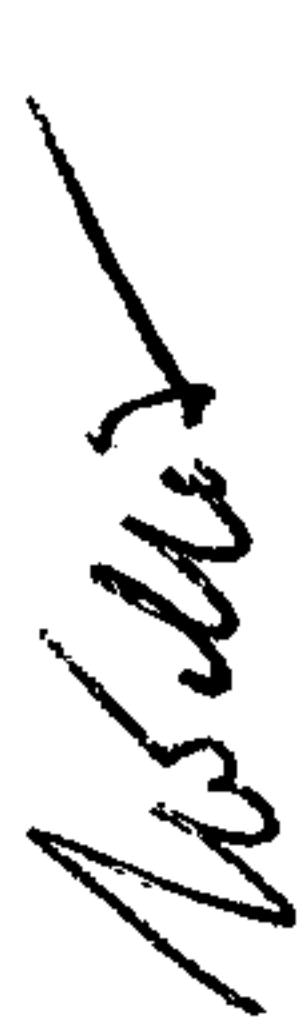
3. On respondent **Associated Broadcasting Company**, for having violated Sec. 4, Art. 6, Part I of the Broadcast Code, the following penalties are hereby imposed: The sum of Thirty Thousand Pesos (P30,000.00) and censure, in accordance with the offense classification and range of penalties provided in Art. 4.2, Part III of the Broadcast Code.

All the above sanctions are duly provided in and authorized by the Broadcast Code, specifically Part III ("Penalties") thereof, as amended.


No motion for reconsideration shall be allowed. Conformably with Sec. 27 of the Authority's Rules of Procedure, an aggrieved party may appeal this Decision with the KBP Board of Directors within ten (10) working days from receipt of a copy hereof. If no appeal is taken, this Decision shall become final and executory upon the lapse of said period.

Let copies of this Decision be furnished to all parties concerned.


IT IS SO ORDERED.



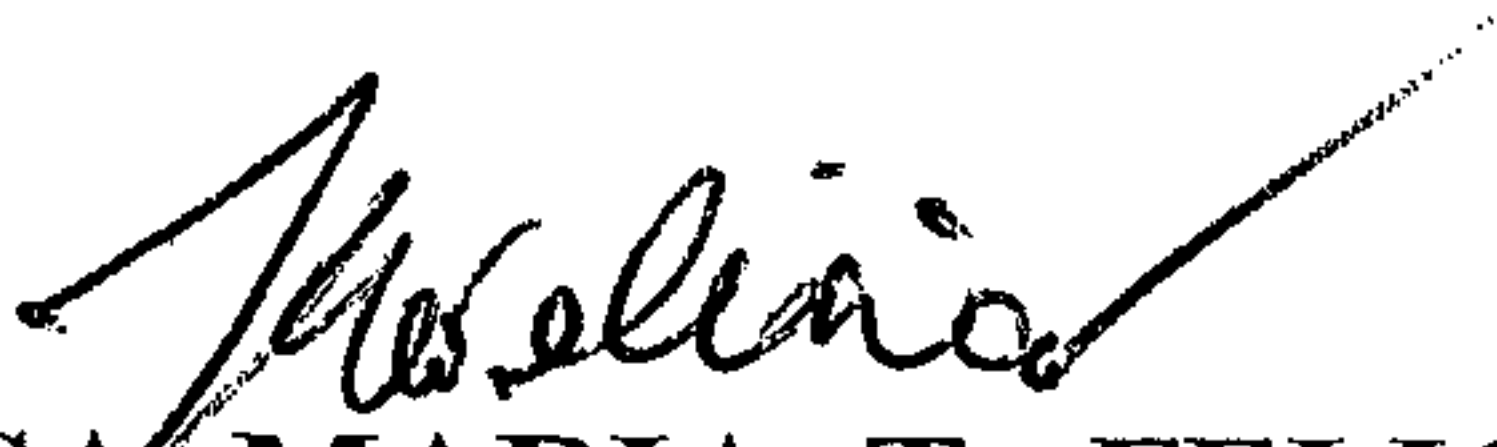
Makati, December 15, 2010


DIANA C. GOZUM
Chairman of the Authority
(No participation in RMN case)


MEMBERS

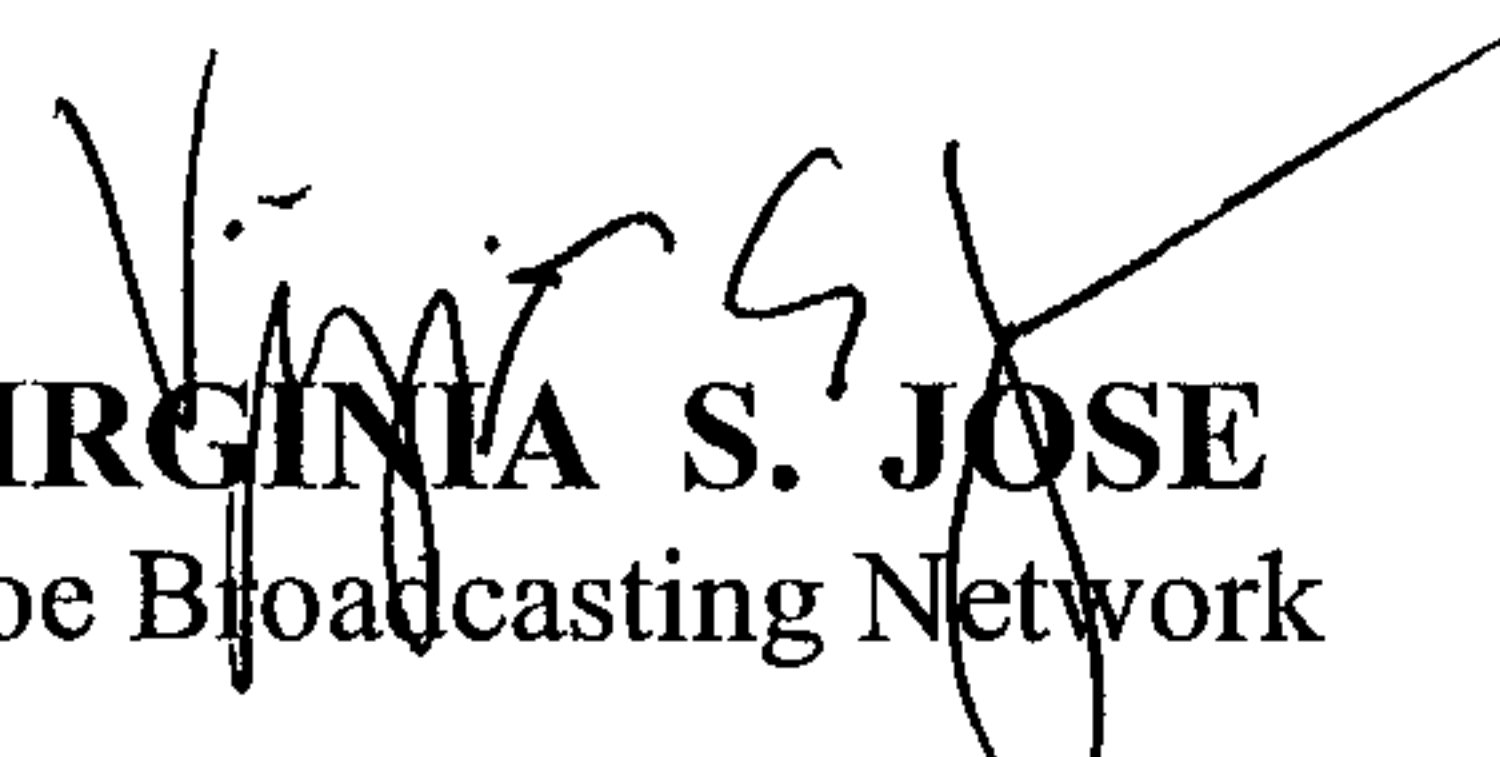

RAFAEL V. BARREIRO
Audiovisual Communicators Inc.
(No participation in ABC case)



ROBERTO D. DEL ROSARIO
Intercontinental Broadcasting - IBC 13
(No participation in RMN case)



ROSA MARIA T. FELICIANO
University of the Philippines
Radio Station DZUP



NOEL C. GALVEZ
Vanguard Radio Network Co.

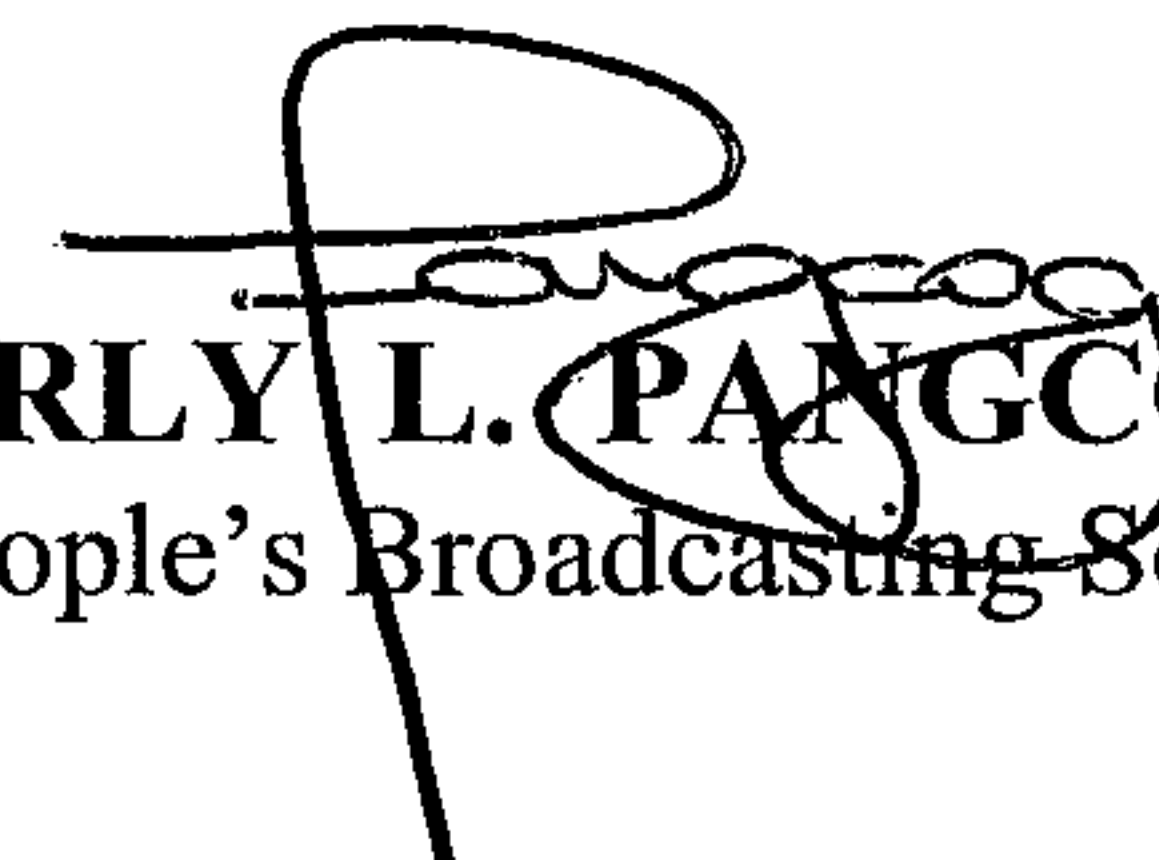

EPHRAIM V. GUERRERO
Intermedia Philippines

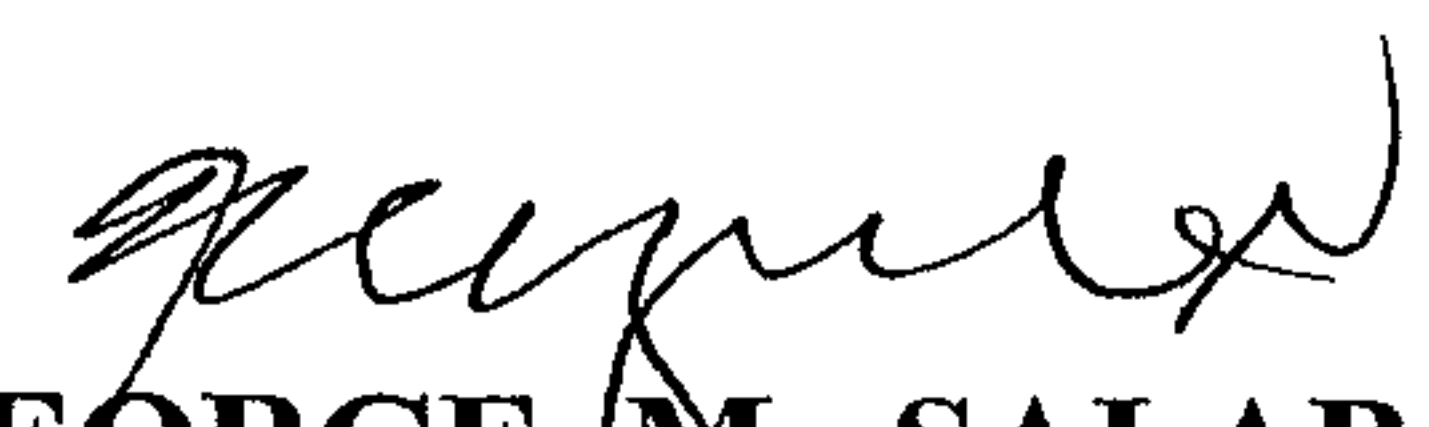

VIRGINIA S. JOSE
Zoe Broadcasting Network



BRENDA B. LOCSIN
PBN Broadcasting Network
(No participation in ABC case)


ERIC C. MALIWAT
Far East Broadcasting Company


CHRISTINE C. ONA
Associated Broadcasting Co.-ABC 5
(No participation in all cases)


ORLY L. PANGCOG
People's Broadcasting Service


GEORGE M. SALABAO
St. Jude Thaddeus Inst. of Technology
(No participation in ABS-CBN case)


JEAN PAUL M. VARELA
Good News Broadcasting
(No participation in all cases)